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Message Text

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C O N F I D E N T I A L STATE 234049

FOLLOWING REPEAT QUITO 6569 SENT ACTION SECSTATE BOGOTA
INFO GUAYAQUIL SEP 23.
QUOTE C O N F I D E N T I A L QUITO 6569

DEPARTMENT FOR S/NM

E.O. 11652: GDS
TAGS: SNAR, EC
SUBJECT: NARCOTICS: AMBASSADOR'S REPRESENTATIONS TO THE PRESIDENT OF THE SUPREME COURT

REF: QUITO 6571

1. I TOOK ADVANTAGE OF THE OCCASION OF MY COURTESY CALL ON THE NEW PRESIDENT OF THE SUPREME COURT OF ECUADOR TO RAISE WITH HIM MY CONCERN OVER THE EVIDENCE OF GROWING CORRUPTION OF THE ECUADOREAN JUDICIAL SYSTEM BY BIG-TIME NARCOTICS TRAFFICKERS. I TOLK HIM THAT CORRUPTION HAD REACHED SUCH ALARMING PROPORTIONS IN COLOMBIA THAT THE COLOMBIAN NARCOTICS TRAFFICKERS SEEMED ALMOST TO CONSTITUTE A SHADOW GOVERNMENT AND THAT THE UNITED STATES HAD FELT OBLIGED TO RAISE THE CORRUPTION PROBLEM AT THE HIGHEST LEVELS OF THE COLOMBIAN GOVERNMENT. I SAID THAT
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I WAS FEARFUL THAT A SIMILAR SITUATION WAS DEVELOPING IN ECUADOR. I SAID THAT TIME AND TIME AGAIN THE BIG TRAFFICKERS, ALTHOUGH CAUGHT REDHANDED, WERE EITHER RELEASED BY THE POLICE OR MANAGED TO HAVE THEIR CASES DISMISSED BY LOCAL JUDGES. I DESCRIBED FOR HIM THE COOPERATIVE EFFORTS BETWEEN THE USG AND THE GOE IN THE NARCOTICS FIELD BUT SAID THAT THESE EFFORTS WERE BEING

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FRUSTRATED BY SPREADING CORRUPTION.

2. THE PRESIDENT'S RESPONSE WAS EMPHATIC. HE SAID THAT ONLY THE DAY BEFORE HE HAD BEEN CALLED OUT OF A MEETING OF THE FOREIGN RELATIONS ADVISORY COUNCIL AT THE BEHEST OF SUPREME COUNCIL MEMBER, GENERAL DURAN, TO MEET WITH THE ACTING MINISTER OF GOVERNMENT. THE MINISTER TOLD THE CHIEF JUSTICE THAT GENERAL DURAN WAS FURIOUS OVER THE NEWS THAT A LOWER COURT JUDGE HAD REVERSED THE CONVICTION OF A WELL-KNOWN NARCOTICS DEALER. (WE THINK THE MINISTER WAS REFERRING TO THE CASE OF WILSON DIEB, WHO HAD BEEN PREVIOUSLY SENTENCED TO 10 YEARS FOR COCAINE TRAFFICKING BUT WHOSE SENTENCE WAS OVERTURNED JUST THIS WEEK.) THE CHIEF JUSTICE TOLD THE MINISTER, THAT, UNFORTUNATELY, UNDER ECUADOREAN LAW THE SUPREME COURT HAD NO RIGHT OF REVIEW OF SUCH DECISIONS. HE THEN ADVISED THE MINISTER THAT IN THIS CASE THE AUTHORITIES SHOULD SIMPLY FIRE THE JUDGE IN QUESTION.

3. THE CHIEF JUSTICE THEN TOLD ME THAT HE WAS GOING TO PROPOSE LEGAL REFORMS AS FOLLOWS:

(A) A DECISION OF A COURT OF FIRST INSTANCE TO DISMISS CHARGES OR OVERTURN CONVICTIONS IN NARCOTICS CASES WOULD HAVE TO BE REVIEWED BY THE SUPREME COURT, RATHER THAN IS NOW THE CASE, BY THE SUPERIOR COURTS.
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(B) POSSESSION OF NARCOTICS WOULD BE CONSIDERED PRIMA FACIE EVIDENCE THAT THE POSSESSOR IS A NARCOTICS TRAFFICKER.

(C) TESTIMONY OF POLICE OFFICIALS AGAINST PERSONS CHARGED WITH NARCOTICS TRAFFICKING WOULD BE GIVEN MORE WEIGHT THAN THE TESTIMONY OF DEFENSE WITNESSES WHICH ATTEMPTED TO REFUTE THE EVIDENCE PRESENTED BY THE POLICE.

(D) ANY SENTENCE OF THE NARCOTICS TRAFFICKER TO LESS THAN TWO YEARS IMPRISONMENT WOULD HAVE TO BE REVIEWED BY THE SUPREME COURT.

4. THE CHIEF JUSTICE SAID THAT IT WAS OBVIOUS THAT THESE WERE "DRACONIAN MEASURES", BUT HE FELT THAT THEY WERE NECESSARY TO PUT A STOP TO JUDICIAL CORRUPTION. I CONGRATULATED HIM ON THIS INITIATIVE BUT I POINTED OUT THAT IN THE CASE OF SUBPARAGRAPH (B) ABOVE, THERE MIGHT BE A PROBLEM IN THAT SOMEONE APPREHENDED WITH A SMALL AMOUNT OF NARCOTICS MIGHT BE ONLY A USER RATHER THAN A TRAFFICKER, AND YET WOULD

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BE SUBJECTED TO THE SAME SEVER PENALTIES AS IF HE WERE
A TRAFFICKER. (I HAD IN MIND HERE THE PROBLEM OF AMERICANS
WHO ARE PICKED UP WITH SMALL AMOUNTS OF MARIJUANA AND
COCAINE AND WHO ARE APPARENTLY ONLY USERS.) HE ASKED
WHETHER THERE WERE STATUTES IN THE UNITED STATES WHICH
ATTEMPTED TO DISTINGUISH BETWEEN THE TRAFFICKER AND THE
USER ON THE BASIS OF THE AMOUNT OF NARCOTICS FOUND IN
THE INDIVIDUAL'S POSSESSION. I SAID I WOULD ATTEMPT TO
FIND OUT IF THIS WERE THE CASE AND LET HIM KNOW. HE
ALSO ASKED ME WHETHER THERE HAD BEEN ANY LEGAL REFORMS
UNDERTAKEN IN COLOMBIA TO ATTEMPT TO GET AT THE PROBLEM
OF JUDICIAL CORRUPTION. HE SAID HE WOULD BE INTERESTED IN
THIS INFORMATION AS GUIDANCE FOR THE REFORMS HE INTENDED
TO PROPOSE. I PROMISED THAT I WOULD LOOK INTO THIS MATTER
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AS WELL.

5. ACTION REQUESTED. FOR THE DEPT. PLEASE ADVISE HOW I
SHOULD RESPOND TO THE CHIEF JUSTICE'S REQUEST REGARDING
THE POSSIBILITY OF ATTEMPTING TO DISTINGUISH IN THE LAW
BETWEEN THE USER AND THE TRAFFICKER ON THE BASIS OF THE
AMOUNT OF DRUGS FOUND IN POSSESSION OF THE INDIVIDUAL.

FOR BOGOTA. I WOULD APPRECIATE ANY INFORMATION REGARDING
REFORMS IN THE COLOMBIAN LEGAL SYSTEM OR JUDICIAL PRACTICES
IN THIS FIELD WHICH MIGHT BE OF HELP TO THE CHIEF JUSTICE.
BLOOMFIELD
UNQUOTE CHRISTOPHER

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